



# ENVIRONMENTAL PERMITS FOR WISCONSIN FISH FARMS

PUB-FH-059 July 2002

## What You Need to Know

This factsheet describes the types of environmental permits for fish farms that are reviewed by the Department of Natural Resources (DNR) including

- NR 16 Natural Water Body Permits
- Chapter 30 Waterway Permits
- Chapter 31 Dam Permits
- Water Quality Wetland Permits
- WPDES Discharge Permits
- High Capacity Well Permits
- Importation Permit

Other permits may be required by the local municipality (city, village, town, county) and by the Army Corps of Engineers (ACOE). The Department of Agriculture, Trade and Consumer Protection (DATCP) handles fish farm registration and fish health issues. The types of environmental permits required are determined on a case by case basis and dependent on the location, design and operation of the fish farm facility.

Read through this publication and check with your DNR Regional Fish Farm Environmental Permit Coordinator (listed on page 4) to determine which permits may apply to your facility.

Underlined words are defined in the Glossary

## INSIDE THIS FACTSHEET

- 1 Overview of DNR Regulations
- 2 Existing Fish Farms
- 2 New Fish Farm Facilities
- 3 Glossary
- 4 Frequently Asked Questions
- 4 Whom to Contact

## Overview of DNR Regulations

The DNR is responsible for implementing a number of permits applicable to fish farms as required by Wisconsin State Statutes including the following.

**NR 16 Natural Water Body Permit:** This permit was first required in January 2000 by new laws (s. 29.733 Wis. Stats. and NR 16 Wis. Adm. Code). The DNR is responsible for permitting the use of natural bodies of water as fish farms. Natural bodies of water that are permitted as private water body by a ch. 30 or 31 permit or wetland approval are exempt from NR 16.

Generally, all DATCP registered fish farms that possessed 1997 Private Fish Hatchery licenses are eligible for a 10-year “grandfathered” NR 16 permit (\$50 permit fee). Fish farms utilizing a natural body of water that were not licensed by the DNR in 1997 are required to be freeze-out ponds and have insignificant public interest. A \$500 application fee is required for an “initial” NR 16 permit, valid for 10 years if issued.

**Importation of Non-Native Fish:** The DNR is required to review and permit all introductions of non-native fish or fish eggs into the state (s. 29.735 Wis. Stats.). You should contact the DATCP who will work with the DNR to determine if a species is non-native and if a DNR permit is required. You will also have to work with DATCP to meet the health requirements for any fish imported into the state.

## Chapter 30 Permits

**s. 30.12 Structure Permit:** You may need a structure permit if you plan to construct a structure below the ordinary high water mark of a public waterway (i.e. a waterway determined to be navigable under s. 30.10 Wis. Stats.). This would include intake structures, culverts, bridges, and most shore protection practices (rock riprap, fiber logs, etc.).

**s. 30.18 Diversion Permit:** All agriculture diversions from any stream or lake require a DNR permit. Currently, for the purposes of s. 30.18 Wis. Stats, aquaculture is not defined as agriculture and therefore a diversion permit is required only if the diversion results in an average loss of 3.09 cubic feet per second during any 30-day period.

*Continued on page 2*

**s. 30.19 Enlargements, Ponds and Grading:** This section of the statutes requires permits for four activities.

- 1) Ponds without outlets constructed within 500 feet of a public waterway require an unconnected pond permit. These ponds are private ponds unless prescribed public by a condition of the chapter 30 permits.
- 2) All ponds with open or closed (i.e. piped) outlets to public waters, regardless of the distance to a public waterway, require an ultimately connected pond permit. These ponds are generally considered private ponds unless prescribed public by a condition of the chapter 30 permit.
- 3) All ponds connected by a navigable channel to an existing public waterway or any enlargement of any public waterway require a permit. These ponds and enlargements are public waters by statute, and permit review requires a public notice and an environmental assessment (EA).
- 4) Any grading in excess of 10,000 square feet on the bank of a public waterway requires a grading permit. A public notice is required for these types of permits.

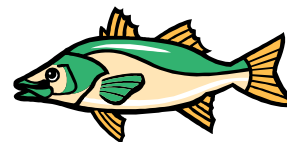
**s. 30.20 Dredging:** Permits are required to dredge or “remove bed material” from both public and non-navigable streams and from all lakes. Permits are not required for maintenance dredging to permitted dimensions of ponds considered private under s. 30.19 Wis. Stats.

**Chapter 31 Dam Construction:** Permits are needed to construct dams or impoundment on Wisconsin waterways. Small dam plan approvals apply to dams constructed on non-navigable streams under s. 31.33. Dams on public waterways require extensive permitting under s. 31.06.

**Wetland Permits:** Depending on the type of project a Water Quality Certification (WQC) may be required if any impacts to wetlands are proposed. If a WQC is required, the project will have to meet the State Water Quality Standards for Wetlands (see NR 103, Wis. Adm. Code). WQC is necessary if any type of DNR permit, approval or funding is attached to the project or the wetland is a non-federal wetland. WQC is required to validate an Army Corps of Engineers 404 wetland permit for federal wetlands.

**WPDES Discharge Permit:** The Wisconsin Pollutant Discharge Elimination System (WPDES) is a federally mandated program. A WPDES discharge permit under ss. 281 and 283, Wis. Stats. is required for rearing cold water species with annual production greater than 20,000 pounds or feeding more than 5,000 pounds of food per month. For rearing warm water species, a discharge permit is required if annual production exceeds 100,000 pounds. WPDES permits may be required for any fish farm determined to be a significant source of pollution. The type and amount of discharge determine WPDES permit fees, and water quality monitoring is required.

**High Capacity Well Permit:** A high capacity well permit is required to withdraw 70 gallons of water per minute or more. Specific design requirements must be met (see s. 280 and 281, Wis. Stats and NR 812 Wis. Adm. Code).❖



## Existing Fish Farms

Work with your regional Fish Farm Environmental Permit Coordinator to determine if you have obtained the necessary environmental permits. Two of the most common permits that apply to fish farms:

**Natural Water Body Permit:** If the fish farm meets the definition of a Natural Water Body and has not been permitted as private through a ch. 30 or 31 permit or wetland approval, you will need an NR 16 permit. See the Natural Water Body Permits Factsheet for more information (PUB-FH-060).

**Chapter 30 or 31 Permits:** Many fish farm ponds were constructed before permits were required by the DNR. However, fish farmers may find it advantageous to obtain ch. 30 or 31 permits even after the work has been done. By obtaining your ch. 30 or 31 permit, the fish farm may be declared private and avoid the need for a Natural Water Body permit. A permit was likely required if the pond was built after 1961 and it is within 500 feet of a public waterway or is connected to a public waterway.

**Other permits:** Check to see if any of the other permits highlighted in this factsheet apply to your facility. ❖

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*Work with your regional Fish Farm  
Environmental Permit Coordinator to determine  
if you have obtained the necessary  
environmental permits.*

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## Starting a New Fish Farm

If you are looking at using an existing water body or constructing a new water body for a fish farm that was not registered a 1997 DNR licensed hatchery, you will have to work closely with DNR staff to make sure the fish farm can comply with the permitting requirements.

*Continued on page 3*



*Many streams are navigable public waterways, and permits are required to make waterway modifications.*

## GLOSSARY

**DREDGING:** means any part of the process of the removal of material from the beds of waterways and the transport of the material to a disposal site (NR 347 Wis. Adm. Code).

**ENLARGEMENT OR CONNECTION:** means the direct physical joining of a waterway below the OHWM of an existing public waterway by a channel having bed and banks (NR 340.02(18) Wis. Adm. Code).

**FREEZE-OUT POND:** means a natural, self-contained body of water in which freezing or anoxic conditions prevent the body of water from naturally sustaining a fish population at least twice every 5 years (s. 29.001(29) Wis. Stats.).

**NATURAL BODY OF WATER:** means any spring, stream, pond, lake or wetland, that was historically present in a natural state but may have been physically altered over time. Waterways permitted as private by a ch. 30 or 31 permit are exempt from this definition (NR 16.71(3) Wis. Adm. Code).

**ORDINARY HIGH-WATER MARK (OHWM):** means the point on the banks or shore up to which the presence and action of water is so continuous as to have a distinct mark either by erosion, destruction of terrestrial vegetation or other easily recognized characteristics (NR 320 Wis. Adm. Code).

**PUBLIC WATERWAY:** means any waterway declared navigable under s. 30.10 Wis. Stats. In order to protect public rights in these waters, permits are required to modify or alter these waterways.

**UNCONNECTED POND:** means any waterway that does not have an open or closed outlet that discharges to another waterbody.

**ULTIMATELY CONNECTED:** means any waterway joined to an existing public waterway by any means that tends to confine and direct flow into the existing navigable waterway (NR 340.02(20) Wis. Adm. Code).

**WPDES:** This stands for Wisconsin Pollutant Discharge Elimination System. The WPDES permitting system is a federally mandated program that requires the DNR to develop Water Quality Standards (see NR 102-106 Wis. Adm. Code) for the discharge of regulated fish farms.

### Step 1. Collect Information

Collect the following information to help determine which permits are required and what restrictions might apply:

- Location of the water body, nearby waterways and wetlands
- Previous DNR permits or licenses issued for the waterway
- Historical maps of the waterway prior to any modifications
- Any proposed modifications to waterway (dredging, culverts, structures, outflow modifications, etc.)
- Proposed fish farm operation plan (species, annual production, etc.)
- Location of fish farm inflow and outflow
- Location of floodplain and shoreland boundaries
- Riparian ownership of the waterway

### Step 2. Meet with DNR Staff

Schedule a meeting with your regional DNR Fish Farm Environmental Permit Coordinator to review the information and determine which permits are required and what restrictions might apply. Since there may be multiple DNR permits required for each waterway, you will likely work with 2 or 3 different DNR staff.

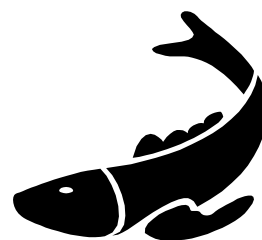
- Natural Water Body permit: Regional Fisheries Expert
- Ch. 30 & 31 permits: Water Management Specialist
- Well permits: Regional Water Supply Specialists
- Discharge permits: Basin Wastewater Specialists

### Step 3. Obtain DNR Permits Prior to Operation

Once you have identified which permits may be required and discussed the general concept of your project with DNR staff, you'll need to complete and submit the permit application forms and the appropriate fees. It may take some time for DNR to process your permits, so apply early. Many of the application forms and instruction can be found on the DNR website or you can work through your Fish Farm Environmental Permit Coordinator.

After you submit a complete application, DNR staff will determine if the permit standards can be met. In many instances this requires a site visit and a permit review by the DNR fisheries, wildlife, and water quality managers. The next step is to comply with any public notice requirements specified by statute or administrative rule.

Once the permit decision has been issued, there is an appeal period where you or other members of the public may challenge the DNR decision.❖



## FREQUENTLY ASKED QUESTIONS

### **How do I know if my fish farm requires a natural water body permit?**

Historical information is critical to be able to determine if the pond is a natural water body. By definition, if the fish farm waterway existed in a natural state as a wetland, pond, stream, or lake, then it will be considered a Natural Water Body. If your pond was constructed in an area "high and dry," it is not a natural water body, regardless if you had to obtain ch. 30 or 31 permits. Historical information like air photographs, county maps and the original governmental survey of 1848 can help.

### **Can I construct my new fish pond in a wetland?**

With most DNR permits, each permit decision is determined on a case-by-case basis. Remember, that ponds constructed in wetlands meet the definition of natural body of water and will require a NR 16 permit – unless a permit for a private pond was issued. More importantly, there are many practical reasons not locate your fish farm in a wetland. Although the wetland will provide a water source, typically that water source is very nutrient rich which can lead to excessive weed growth, toxic algae blooms and anoxic conditions – none of which are favorable to growing fish. Introducing fish into a system that naturally does not contain fish (like shallow wetlands) can significantly damage the populations of amphibians and reptiles. This may seem like a "small" price to pay, but the cumulative impact of habitat loss and habitat shifts will reduce or even eliminate these precious species.

### **When will I likely obtain a permit to construct a new fish farm?**

All permit applications under ch. 30 and 31 are reviewed individually. DNR resource managers are trained to examine the potential impacts of a proposed project on the public rights and interests associated with the waterway. However, fish farms meeting the following design recommendations may be more likely permitted:

- Raceways placed outside of wetland boundaries, fed by a high capacity well where the raceway discharges to a non-public warm-water stream or wetland.
- Ponds constructed adjacent to, or on non-public (i.e. non-navigable) warm water streams that do not impact wetlands and that are properly approved as an unconnected or ultimately connected pond by ch 30 and 31 permit and not declared public by condition of the permit. ❖

## DNR Contacts

The DNR has identified a Fish Farm Environmental Permit Coordinator for each of the five DNR regions. The Coordinator does not handle all the different types of permits, but can answer general questions or direct you to the appropriate DNR staff to assist you with your questions or permit applications. ❖

### **Southcentral Region:**

Scot Stewart  
3911 Fish Hatchery Road  
Fitchburg, WI 53711  
608-275-3266

### **Southeast Region:**

Matt Coffaro  
2300 N. Martin Luther King Jr. Drive  
Milwaukee, WI 53212  
414-263-8614

### **Northeast Region:**

Lee Meyers  
P.O. Box 10448  
Green Bay, WI 54307-0448  
920-492-5834

### **Westcentral Region:**

Mark Endris  
1300 W. Clairemont Street  
Eau Claire, WI 54702  
715-839-1631

### **Northern Region:**

Steve AveLallemant  
107 Sutliff Avenue  
Rhinelander, WI 54501  
715-365-8987

### **Aquaculture Sector Liaison:**

Jerry Rodenberg  
Bureau of Community Assistance  
101 W. Webster Street  
Madison, WI 53707  
608-266-7715

For more information, see our website:

[www.dnr.state.wi.us/org/water/fhp/fish/aquaculture/envperm.htm](http://www.dnr.state.wi.us/org/water/fhp/fish/aquaculture/envperm.htm) ❖

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